

3. 2006SP-174G-06
Newsom Station Townhomes
Map 126-00, Part of Parcel 064
Subarea 6 (2003)
Council District 35 - Charlie Tygard

A request to change from AR2a to SP zoning a portion of property located at 7848 McCrory Lane, adjacent to the CSX Railroad and south of Highway 70 (30 acres), to permit 180 townhomes, requested by McCrory Lane Partners LLC, owner.

STAFF RECOMMENDATION: Disapprove

History - The Planning Commission disapproved this request at its December 14, 2006, meeting. Staff recommendation was for approval with conditions, but the applicant disagreed with the conditions and asked that the request be disapproved. The request was referred back to the Planning Commission from Council to reconsider the conditions for approval.

Deferrals - The request was deferred from the February 22, 2007, Planning Commission meeting so that the applicants could address staff's concerns regarding the adjacent quarry site. *At this time, the applicants have not provided any information addressing the adjacent quarry site.*

APPLICANT REQUEST - Preliminary SP

A request to change from Agricultural/Residential (AR2a) to Specific Plan (SP) zoning a portion of property located at 7848 McCrory Lane, adjacent to the CSX Railroad and south of Highway 70 (30 acres), to permit 180 townhomes.

Existing Zoning

AR2a District - Agricultural/Residential requires a minimum lot size of 2 acres and is intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres. The AR2a district is intended to implement the natural conservation or interim nonurban land use policies of the general plan.

Proposed Zoning

SP District - Specific Plan is a zoning district category that provides for additional flexibility of design, including the relationship of buildings to streets, to provide the ability to implement the specific details of the General Plan.

- The SP District is a new base zoning district, not an overlay. It will be labeled on zoning maps as "SP."
- The SP District is not subject to the traditional zoning districts' development standards. Instead, urban design elements are determined for the specific development and are written into the zone change ordinance, which becomes law.
- Use of SP does not relieve the applicant of responsibility for the regulations/guidelines in historic or redevelopment districts. The more stringent regulations or guidelines control.
- Use of SP does not relieve the applicant of responsibility for subdivision regulation and/or stormwater regulations.

BELLEVUE COMMUNITY PLAN

Neighborhood Center (NC) - NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are those that meet daily convenience needs and/or provide a place to gather and socialize. Appropriate uses include single- and multi-family residential, public benefit activities and small-scale

office and commercial uses. An accompanying Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

Special Policy Area 9 - This Special Policy applies to the old quarry site on McCrory Lane near the intersection with Charlotte Pike. Because of both the environmental sensitivity of this site that is so close to the Harpeth River and its potential danger to the public, the following measures should be taken to secure the former quarry site:

- The existing vegetative cover is to be maintained from the southern boundary of the Neighborhood Center policy that covers the northern part of the property through the remainder of the property under Natural Conservation policy;
- The quarry, itself, is to remain undisturbed and unfilled.
- Steps should be taken to ensure that unauthorized access to the former quarry is prevented.
- These measures shall be incorporated into a PUD or SP plan for the entire property on which the old quarry is sited, so they will remain in place in perpetuity regardless of future resubdivision or property ownership.

Natural Conservation (NCO) - NCO policy is intended for undeveloped areas with the presence of steep terrain, unstable soils, and floodway/floodplain. Low intensity community facility development and very low density residential development (not exceeding one dwelling unit per two acres) may be appropriate land uses.

Consistent with Policy? - No. The proposed SP site plan does not implement the intent of the area's Neighborhood Center policy or Special Policy Area 9. This Special Policy was specifically adopted by the Commission on December 14, 2006, to allow residential development on a portion of the property, but only if the public is protected from the dangers of the quarry site and the quarry is protected from the public.

History - This request was previously recommended for disapproval by the Planning Commission on December 14, 2006. Staff's recommendation was for approval with conditions, but the applicant disagreed with the conditions and asked that the request be disapproved. The request was referred back to the Planning Commission from Council to reconsider the conditions for approval.

According to Metro GIS, the quarry property originally contained approximately 72 acres in total. Staff has learned that the property was recently divided into two individual parcels with the northern parcel, proposed for 180 townhomes, containing approximately 30 acres and the southern parcel, which includes the abandoned quarry containing approximately 42 acres.

Despite this division into two parcels, the proposed development cannot be considered separately from the adjacent property that currently contains a quarry. Any development proposed for the northern parcel remains within close proximity to the quarry, which will pose significant safety issues for future residents.

Deferrals - This request was deferred from the February 22, 2007, Planning Commission meeting so that the applicants could address staff's concerns with the adjacent quarry site. *At this time, the applicants have not provided any information indicating that they have addressed significant concerns with the adjacent quarry site.*

Site Plan - The plan calls for 180 units on approximately 30 acres with a density of approximately six units per acre, and also includes a pool and pool house, playground and an outdoor recreational area. All units will front private drives and will be accessed from McCrory Lane. A total of 300 parking spaces are proposed.

Sidewalks - Interior sidewalks are identified on the plan and will allow for residents to move within the development. A sidewalk connection is not shown to McCrory Lane but should be provided. Also, a sidewalk should be provided along McCrory Lane, which will allow for pedestrian access to the State park on the west side of McCrory Lane and any surrounding future development.

Buffer Yard - To ensure that this development will not have a significant negative impact on McCrory Lane, a Standard "D" Landscape Buffer Yard should be provided along McCrory Lane.

Greenway - The Harpeth River is included in the Metropolitan Parks and Greenways Master Plan and a greenway is identified for this section of the Harpeth River. A greenway and conservation easement must be shown on the plan. The greenway and conservation easement shall include the floodway and a corridor at least 75 feet in width, measured from the outer edge of the floodway.

Environmental Constraints - The proposed development will be on land that was once used for mining rock and is in close proximity to a large, open pit that lies directly to the south of this site. The open pit poses significant health and safety issues for future residents of this development. To ensure that the health, safety, and welfare of future residents are protected, the plan should adequately identify appropriate barriers that will keep residents and visitors to the project from the abandoned quarry.

Additional issues regarding the quarry pertain to its future use should development of this site intensify. The Harpeth River runs adjacent to the east property boundary and activity in the quarry could have a negative impact on water quality. A previous plan called for the quarry to be filled in with construction materials. This raised considerable community concern. Due to the proximity of the State designated Scenic Harpeth River, any fill materials could leach into the river and negatively affect the water quality of the river. To ensure that the water quality of the Harpeth River is not harmed, an adequate plan for the quarry should be established. No fill should be placed in the quarry, and activity should be limited only to protective measures that will ensure the integrity of the site and protect the Harpeth River. Access should be restricted through appropriate means that will ensure that people are protected from the site.

Staff Recommendation - The current plan does not adequately implement the intent of the Community Center policy. As proposed, the plan allows 180 residential units without in any way addressing significant issues with the adjacent quarry property. For these reasons staff recommends that the SP be disapproved.

Staff could only recommend approval of the request if provisions are made to address the quarry. When this case was considered by the Commission in December 2006, staff recommended that the boundaries of the SP should be expanded to include the quarry property. Through their attorney, the applicants have argued that it would be overreaching to require expansion of the SP.

If the applicant does not wish to expand the SP to include the quarry property, other steps could be taken to address concerns about the quarry. A conservation easement that prohibits disturbance of the quarry would ensure that no negative effects are caused by development on or around the property. Such an easement or other legal agreement could also include terms that would require the holder of the easement or other parties to provide barriers to prevent people from accessing the quarry.

Regardless of what measures are taken, staff can only recommend approval of this request if some adequate steps are taken to protect the public and to protect the Scenic Harpeth River from misuse of the quarry. Without such measures, approval of 180 residential units in this location would be inappropriate.

PUBLIC WORKS RECOMMENDATION - Approve with the following conditions:

1. All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' approval of the construction plans. Final design and improvements may vary based on field conditions.
2. Show and dimension right of way along McCrory Lane at property corners. Label and dedicate right of way 30 feet from centerline. Label and show reserve strip for future right of way, 50 feet from centerline to property boundary, consistent with the approved major street plan (S4 - 100' ROW).
3. Show and dimension right of way along Highway 70 at property corners.

4. Show and label the proposed right-of-way for the realignment of McCrory Lane with Highway 70, as indicated in the Tennessee Department of Transportation's advance planning report.
5. A traffic impact study is required for this development.

Typical Uses in Existing Zoning District: AR2a

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached(210)	30	0.5	15	144	12	16

Typical Uses in Proposed Zoning District: RM6

Land Use (ITE Code)	Acres	Density	Total Number of Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Res. Condo/Townhome (230)	30	6	180	1,058	83	98

Change in Traffic Between Typical Uses in Existing and Proposed Zoning District

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--			+165	914	71	82

STORMWATER RECOMMENDATION - Approve with the following conditions:

1. Add 78-840 Note: (Any excavation, fill, or disturbance of the existing ground elevation must be done in accordance with storm water management ordinance No. 78/840 and approved by the Metropolitan Department of Water Services).
2. Add Buffer Note (if there is a drain buffer): (The buffer along waterways will be an area where the surface is left in a natural state, and is not disturbed by construction activity. This is in accordance with the Stormwater Management Manual Volume 1 - Regulations).
3. Add Preliminary Note: (This drawing is for illustration purposes to indicate the basic premise of the development. The final lot count and details of the plan shall be governed by the appropriate regulations at the time of final application.)
4. Add Access Note: (Metro Water Services shall be provided sufficient and unencumbered access in order to maintain and repair utilities in this site).
5. Add C/D Note: (Size driveway culverts per the design criteria set forth by the Metro Stormwater Management Manual (Minimum driveway culvert in Metro ROW is 15" CMP).

METRO SCHOOL BOARD REPORT

Projected student generation* 10 Elementary 7 Middle 7 High

Schools Over/Under Capacity - Students would attend Gower Elementary School, Hill Middle School, and Hillwood High School. All three schools have been identified as having capacity. This information is based upon data from the school board last updated August 2006.

CONDITIONS (if approved)

1. The site plan shall adequately identify the appropriate barriers that will keep residents from the abandoned quarry to the south of this development.

2. Prior to approval by the Council on third reading, adequate steps must be taken to ensure that no fill is placed in the quarry. Activity shall be limited to only protective measures that will ensure the integrity of the site, and protect residents and natural resources.
3. Sidewalks shall be provided along property line and McCrory Lane. A sidewalk connection shall be provided from the development to McCrory Lane.
4. A greenway and conservation easement must be shown on the final development plan. The greenway and conservation easement shall include the floodway and a corridor at least 75 feet in width, measured from the outer edge of the floodway.
5. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the RM9 zoning district effective at the date of the building permit. This zoning district must be shown on the plan.
6. The application, including attached materials, plans, and reports submitted by the applicant and all adopted conditions of approval shall constitute the plans and regulations as required for the Specific Plan rezoning until a Final Plan is filed per the requirement listed below. Except as otherwise noted herein, the application, supplemental information and conditions of approval shall be used by the planning department and department of codes administration to determine compliance, both in the review of final site plans and issuance of permits for construction and field inspection. Deviation from these plans will require review by the Planning Commission and approval by the Metropolitan Council.
7. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
8. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metropolitan Department of Public Works for all improvements within public rights of way.
9. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
10. Minor adjustments to the site plan may be approved by the planning commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council, that increase the permitted density or intensity, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.

Within 120 days of Planning Commission approval of this preliminary SP plan, and in any event prior to any additional development applications for this property, including submission of a final SP site plan, the applicant shall provide the Planning Department with a final corrected copy of the preliminary SP plan for filing and recording with the Davidson County Register of Deeds. Failure to submit a final corrected copy of the preliminary SP plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

Mr. Swaggart presented and stated that staff is recommending disapproval.

Mr. Bernhardt stated for the record that the applicant sent a letter stating they would fence the entire quarry site.

Mr. Lawson acknowledged the commitment made by the applicant to place fencing around the quarry to address the safety concerns associated with this proposal.

Mr. Loring too acknowledged the fencing that will be provided to address the safety concerns as well as the commitment that the water in the quarry would be undisturbed. He mentioned the SP zoning that would be in place to assist in controlling these measures.

Ms. Jones spoke in favor of the development in that it will provide additional monitoring of the issues associated with the quarry.

Mr. Ponder thanked all of those who have expressed their thoughts and concerns on this issue. Mr. Ponder requested additional clarification on the options available to the Commission if they chose to approve the development.

Mr. Swaggart explained this concept to the Commission.

Mr. McLean stated he was in favor of approving the development with the added conditions of no fill or dumping in the quarry and the installation of the fencing.

Mr. Cummings mentioned the cost of the fencing but stated it was necessary.

Mr. Tyler requested additional information regarding the quarry.

Mr. Ponder moved and Mr. McLean seconded the motion, which passed unanimously to approve with conditions Zone Change 2006SP-174G-06 including install and properly maintain a secure fence around the entire quarry property and there be no dumping or fill of any materials of any type into the quarry. (7-0)

Resolution No. RS2007-092

“BE IT RESOLVED by The Metropolitan Planning Commission that 2006SP-174G-06 is APPROVED WITH CONDITIONS (7-0), including a requirement to install and properly maintain a secure fence around the entire quarry site and no dumping or fill of any materials of any type into the quarry site.

While the proposed SP plan does not specifically implement the Special Policy for the property that is intended to ensure that people are protected from the dangers of the existing quarry and that no fill be placed within the quarry, the Commission approved with conditions, including a condition that a fence be installed and maintained around the quarry site, and that no dumping or filling of any materials of any type be placed within the quarry.”